

Minutes of the Commission Meeting of the Board of Commissioners, Carbon County, State of Utah, held October 7, 2015 at the Courthouse Building, Price, Utah, commencing at 4:30 p.m.

Those present: Jake Mellor, Commission Chair
Jae Potter, Commissioner
Casey Hopes, Commissioner

Also present: Seth Oveson, Clerk/Auditor
Lori Perez, Deputy Clerk
Sandy Lehman, Commission Secretary
Jeff Wood, Sheriff
Christian Bryner, Attorney
Rose Barnes, HR
Eric Johnson, Attorney
Dave Levanger, Planning and Zoning
Whitney Waterfall, Emergency Services

Clerk's Certificate of Compliance with Open Meeting Law was filed.

Commissioner Mellor welcomed everyone and led the Pledge of Allegiance. The meeting began at 4:30 p.m.

1) **Presentation to County from Miners Memorial Committee – Dennis Ardohain**

Dennis Ardohain explained that the County has supported the Miners Memorial from the beginning. He presented the County with a painting on sandstone and asked that it be displayed at the Courthouse. The Miners Memorial Committee also visited the State Legislature and were given an official citation honoring fallen mine workers. Dennis read the citation and presented it to the Commissioners.

Dennis said that anyone who donated \$25,000 to the memorial was recognized with a mine lantern created by Danny Blanton. He presented the Commission with their lantern. The monument is now a reality and the dedication was enjoyable. The County was thanked for the help with the fundraising.

There are still three satellite phases of the monument needing to be completed in Helper, Scofield and East Carbon. The Committee wants the monument to be a destination for tourism and hopes that next year the memorial is filled with flowers during Memorial Day. Dennis said it could not have happened without the twenty-eight people on the Miners Memorial Committee and the support from the County and the local communities.

The Commissioners thanked Dennis and Frank and the committee for creating the monument and making it all happen. A place will be found for the items presented.

2) **Carbon County Employee of the Month Recognition – Rose Barnes**

Rose presented Connie Julian as Employee of the Month. Frank Ori said Connie has been the office manager for Carbon County Recreation for fourteen years. She makes sure the bills are paid and that Frank gets to appointments on time. She does a great job and is much appreciated.

Rose said Connie interacts with many families and is always pleasant. Rose receives many good comments from people who have visited the Recreation Office. She was thanked by the Commission.

3) **CONVENE as Carbon County Municipal Building Authority**

Commissioner Potter made a motion to convene as the Carbon County Municipal Building Authority. Commissioner Hopes seconded. Motion carried.

- A. ***A RESOLUTION OF THE MUNICIPAL BUILDING AUTHORITY OF CARBON COUNTY, UTAH, AUTHORIZING THE ISSUANCE AND SALE OF ITS \$1,000,000 LEASE REVENUE BONDS, SERIES 2015 FOR THE CONSTRUCTION OF COUNTY ROAD IMPROVEMENTS, INCLUDING COUNTY ROAD IMPROVEMENTS, INCLUDING BRIDGES IN NINE MILE CANYON AND A SALT SHED AND RELATED IMPROVEMENTS; AUTHORIZING A MASTER RESOLUTION, AS AMENDED, AN ANNUAL APPROPRIATION LEASE, AS AMENDED, A GROUND LEASE, AS AMENDED,***

SECURITY DOCUMENTS, AS AMENDED, AND ALL OTHER DOCUMENTS AND RELATED MATTERS.

Attorney Eric Johnson addressed this matter. He said this Resolution is for further improvements in Nine Mile Canyon; the County has already issued bonds for improvements which is why these are amended improvements that will piggyback on the original documents. This is through the Municipal Building Authority who will lease the improvements to the County. The lease is a fifteen year term at 1.5% interest. By authorizing this Resolution today, you are not actually receiving the money and you are not obligated to repay the money until you receive it.

Commissioner Potter said sometimes these projects go on for a long period of time. This extra money was originally authorized for the paving of the Nine Mile Canyon Road. The CIB has reauthorized this part grant, part loan and it would be required if we move forward with the projects and close the bonds.

Commissioner Mellor asked if there is a time limit to use the funds. Eric said nothing by statute but would like to see them used in the next 18 to 24 months.

Commissioner Potter made a motion to approve the Resolution as presented. Commissioner Mellor seconded. Motion carried.

B. PUBLIC HEARING to receive public comments on the size, scope, and nature of funding to be requested from the Community Impact Fund board for a Soccer Field Complex to be located at the Carbon County Fairgrounds.

Commissioner Hopes gave background information concerning the soccer fields. Carbon County Recreation and Transportation Special Service District had allocated \$450,000 to build soccer fields at the Fairgrounds. In order to make the funding package work we have to go to the Community Impact Board and ask for a matching grant and also include a soft match to allow for the County Road Department to do preliminary excavating of the site and ground preparation work prior to the final engineering.

Commissioner Potter discussed the money involved. Commissioner Hopes further explained that \$450,000 would come from the Special Service District, the Carbon County Road Department would add \$210,000 in soft match for clearing and site excavation and Castleview Hospital has donated \$20,000 to the project. This money would be used to leverage the grant match. The Community Impact Board, if they grant the money, could pay slightly less than half the total cost. There is a possibility that the Community Impact Board will not grant the money but may offer a low interest loan of 2.5%. If this happens the Municipal Building Authority would have to look at the cost of the loan, the impact to the County and bring it back to the Commission for review.

Commissioner Potter said it would have to be brought back to a public hearing if different because today we are presenting the application as it stands asking for a grant. If it comes back any different from the Community Impact Board then it would have to be brought back to a public hearing so that everyone is aware of what is going on.

Commissioner Hopes began the public hearing at 4:50 p.m.
Seeing no response, the public hearing was closed at 4:51 p.m.

ADJOURN AS MBA – RECONVENE as Carbon County Board of Commissioners

Commissioner Hopes made a motion to reconvene as the Carbon County Board of Commissioners. Commissioner Potter seconded. Motion carried.

- 4) A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS AUTHORIZING THE ISSUANCE AND SALE BY THE MUNICIPAL BUILDING AUTHORITY OF CARBON COUNTY, UTAH OF ITS \$1,000,000 LEASE REVENUE BONDS, SERIES 2015 FOR THE CONSTRUCTION OF COUNTY ROAD IMPROVEMENTS, INCLUDING BRIDGES IN NINE MILE CANYON AND A SALT SHED AND RELATED IMPROVEMENTS; AUTHORIZING A MASTER RESOLUTION, AS AMENDED, AN ANNUAL APPROPRIATION LEASE, AS AMENDED, A GROUND LEASE, AS AMENDED, SECURITY DOCUMENTS, AS AMENDED, AND ALL OTHER DOCUMENTS AND RELATED MATTERS.**

Commissioner Hopes made a motion to approve the Resolution as stated. Commissioner Potter seconded. Motion carried.

5) **Approval of CIB Priority List amendment**

Commissioner Potter said that the soccer field complex has been added to the CIB priority list. This list is available for the public to view.

Commissioner Potter made a motion to approve the CIB Priority List amendment. Commissioner Hopes seconded. Motion carried.

6) **Approval of Minutes**

Commissioner Hopes made a motion to approve the September 16, 2015 Commission Meeting minutes. Commissioner Potter seconded. Motion carried.

7) **Discussion concerning Tourism-Harvey Howard, Desert Thunder Raceway**

Commissioner Hopes made a motion to table this item as well as Item 8. Commissioner Potter seconded. Motion carried.

8) **East Carbon Senior Citizen Center – Mayor Doug Parsons**

This item was tabled.

9) **Possible approval of signage in Kenilworth**

Commissioner Potter has been approached by a committee from Kenilworth asking that a sign to welcome people to Kenilworth be placed on County property. They will work with UDOT (Utah Department of Transportation) and meet their specifications but it will be easier to gain approval for the sign on County property versus the property owned by UDOT. The Kenilworth Committee has done their own fundraising and has the funds in hand. They are looking for approval from the Commission.

Commissioner Hopes made a motion to approve the placement of the Welcome to Kenilworth sign on County property. Commissioner Potter seconded. Motion carried.

10) **Discussion and possible approval of beautification project in Kenilworth on County property**

The Commissioners reviewed another piece of County owned property in Kenilworth. The Kenilworth Committee in the past has asked for permission to beautify this property at their own expense. They are again asking for permission to move forward with this project. Commissioner Potter has asked for a list of things they would like to do and a timeframe. The Committee will provide this before the project begins. This area has a shed used for storing table and chairs that are used by the residents of Kenilworth. The Committee is not asking for utilities or water but to clean up the property. Commissioner Potter sees this as a great opportunity to improve the area.

Commissioner Hopes made a motion to approve the beautification and clean-up project in Kenilworth. Commissioner Potter seconded. Motion carried.

Bonzo Vasquez from Kenilworth wanted to talk about the little park they are trying to re-establish. Commissioner Potter said he has met with the Committee and they are in the process of looking at the engineering for the half basketball court on the south end of the property and fencing to keep the balls from rolling into the wash. The grading and site prep would be done with County equipment and the concrete should be in before the frost and be ready for spring. Bonzo asked about putting up a swing set. Commissioner Potter said it is part of the future design. The Committee has not yet asked to have a swing set put in or how it will be funded. The overall project is moving forward.

11) **Public Hearing to consider and possibly approve a recommendation from the Planning Commission for a change to the zoning district for Circle K Ranch, from R-1-8,000 to RR-1, parcel numbers 2-1553-10, 2-1553-11, 2-1553-12.**

Dave said this property was zoned at 8,000 years ago by the previous owners in anticipation of development in the late '70's or early '80's. This land is reached by going through part of that previous development. It was a project that Circle K Ranch completed to open up access to the developer. The parcels are 02-1553-10, 11 and 12 located approximately north east of Liberty Estates. This change is in anticipation of future development.

Commissioner Mellor asked what the zone change accomplishes. Dave said it accomplishes less density. This zone change increases the size of the lots to a minimum of one acre.

Commissioner Mellor opened the public hearing at 5:03 p.m.
Seeing no comments, the public hearing was closed at 5:04 p.m.

Commissioner Potter made a motion to approve the zoning change as presented. Commissioner Hopes seconded. Motion carried.

12) Public Hearing to consider and possibly approve a recommendation from the Planning Commission for a change to the zoning district for The Cecil McKendrick Trust, Mary Thany, from RR 2.5 to R-1-20,000, for a portion of parcel 02-1655-0004, located at 1144 S. 600 W.

Dave Levanger explained where this property is in the 1000 South development. This change deals with a small portion of the property to accommodate the existing home and putting it on a half-acre lot.

Commissioner Hopes asked if there is a right of way to get into this home. Dave said yes there is a County Road on the west side. The Commissioners and Dave reviewed the map, the property lines and access.

Commissioner Mellor opened the public hearing at 5:06 p.m.
Seeing no action the public hearing was closed at 5:07 p.m.

Commissioner Hopes made motion to approve the zoning change as presented. Commissioner Potter seconded. Motion carried.

13) A RESOLUTION DELCARING THE INTENTION OF THE BOARD OF COUNTY COMMISSIONERS OF CARBON COUNTY, UTAH, TO CONSTRUCT ROADS AND RELATED IMPROVEMENTS; TO CREATE OR DESIGNATE THE CARBON COUNTY, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2015-1 (HILL SUBDIVISION); TO FUND THE COST AND EXPENSES OF SAID IMPROVEMENTS BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID SPECIAL TAX ASSESSMENT AREA AND FOR A PUBLIC HEARING; TO DELCARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS.

Eric Johnson explained that the people in the Hill Subdivision have been trying to get the road paved and taken over by the County. The primary way to do this is by special assessment funding where those property owners shoulder the cost so the rest of the County constituents aren't obligated to fund the paving. Neil Breinholt was invited to the podium.

Neil said they have been working on this for several years in order to easily maintain the road. It was suggested by the Commission a few years ago that this tax assessment was available. Eric was introduced to the residents and has helped them on the project. Each resident along the road has received a questionnaire explaining the idea of the assessment, the cost and how it would work through the County. The cost estimate of the road is a little higher than what they believe the actual costs will be. Neil said they had a huge positive response to the questionnaire.

Neil said not everyone has agreed to the potential of an assessment but about 80% did. A meeting was held and all of the property owners were invited. The majority were in agreement to place it before the Commission to see if there was enough due diligence to allow for a public hearing.

Eric explained how special assessment funding works. The Resolution before the Commission today is not authorizing anything, you are calling a public hearing and authorizing that notices go out to the landowners to invite them to a public hearing. In addition to notices in the paper the County is required to send notices of the public hearing to each property owner in the subdivision that could be assessed. Eric further explained how a

special assessment works where the benefitting properties are assessed a special property tax. The improvements are estimated to be under \$500,000 but with contingency it could be \$510,000. There are seventeen proposed properties and the cost would be \$30,000 each, spread over ten years. The property owners have the option to pay the \$30,000 all at once or to spread it over the ten years. The County needs to find someone to finance the project. There is a lot of security required for the loan and the actual property where the tax assessment is imposed would be the security.

Commissioner Mellor restated that if this Resolution is passed it would allow for the process to go forward where all property owners would be notified and they would have a chance to speak in a public hearing in favor or against. No decision can be made to do this project until after a public hearing is held. The public hearing is set for November 18, 2015 during regular Commission Meeting.

Commissioner Mellor asked if all property owners would be affected, they couldn't opt in or opt out. Eric explained that by statute if 40% of the property owners object in writing, then you are precluded from moving forward on the project, if it's less than 40% than it is at the Commissions discretion.

Commissioner Potter assumes that if it did move forward and the County took out a loan, then the annual assessment would cover the loan and interest. Eric said it would cover the loan, the interest and some of the administrative fees for placing and sending out the notices to invite the property owners to the public hearing.

Commissioner Potter said this project has been discussed for a while and that some testing has been done on the subsurface of the road. His concern is that the estimated cost is too low and needs to be doubled based on the current price of asphalt. He asked what happens if the project goes over that amount and do we have an engineer's estimate.

Eric said the estimates were acquired by the residents from the subdivision and they are comfortable with the amount. But before any funding is finalized the County should require construction bids. Eric said the estimate from Nielson Construction is \$510,000, often when the County bonds for something the amount in the notice is a maximum amount. In this case the \$510,000 is an estimate and not a hard cap.

Commissioner Potter said in order to have a public hearing, when do we get those real cost numbers. He is not willing to move forward without knowing and authorizing solid numbers. Commissioner Mellor said we need to look at the engineering design and have contractor's base estimates off of that before we move forward.

Eric said if the estimate went over 20% then you would want to rehear it, if it were 5% to 10% you would probably be okay.

Concerning the comment about holding off until a firmer estimate is made Eric asked Neil to comment. Neil said the difference of this road is it is substantially prepared; they have had the road tested and the subgrade is mostly intact. There is one section in question and that difference was included in the proposal. Both estimations from the \$434,000 response to a spec given by the County to include the established subgrade, came back less than \$450,000. However, they assessed all of the participants involved and do not have robust support for a higher amount. If there is public and commission support then they would spend the money for engineering. The committee has worked with both Dave Levanger and Curtis Page and used their specs for estimates. Neil further explained the issues and the preliminary work done on the road.

Commissioner Mellor asked if an engineering estimate has been received. Neil explained only from the contractors but engineering estimates were put into the bid. Commissioner Mellor said the estimated engineering cost is \$15,000 to \$25,000. Neil said if they have the consensus and support for the amount then they would pursue it. All of it has been pursued with the amount being \$550,000 and the estimates have been significantly under that at \$410,000 to \$430,000.

Commissioner Mellor asked Eric, if the project is okayed and funded, would engineering come first and what happens if the engineering costs increase, would the property owners pay for that. Eric said yes, the cost of the engineering would be paid by the property owners even if the project is not completed.

Curtis explained how the testing on the road was done. The road has been in place for at least fifteen years and was upgraded with gravel about ten years ago. Once the engineer is chosen, further testing would need to be done.

Commissioner Potter questioned the width of right of way and if the road falls where it is plotted. Any issues would have to be resolved before it could be built. It is known that the road is not exactly where it should be. There are other issues involved and more challenges.

Commissioner Hopes's concern would be to incur the expense of engineering if the project doesn't move forward because of increased costs. Neil said they do have funds through the homeowners associations that could be used for engineering. If this was prefunded then they would know if they are on firm ground.

Curtis said they are at a point to gamble and assume that their estimate is going to work. There are other things that could change the cost of the project. The final cost would come from engineering. The real question is when to have another public hearing.

Commissioner Hopes said a good winter could change the substructure and the moisture may cause degradation of the road. Curtis said yes there could be issues in the spring. Curtis said the Commission needs to decide to move forward or not.

Christian explained that the Resolution gives a date for a public hearing but you wouldn't have to decide to proceed. You could go forward with the public hearing and see where things are, giving more time to decide on what information is needed. There is no problem going forward with the public hearing even though the information may be incomplete.

Commissioner Mellor said the worst case scenario would be to have the public hearing, approve it, they spend \$25,000 on a study, find out something they didn't realize and then have to pay \$25,000 through a special assessment over the next ten years. Christian said it is possible.

Seth reiterated that the HOA has limited funding but if they provide a letter of commitment to the County for the needed amount then some of the engineering could begin to try to narrow the range, with a promise of reimbursement if the project stops. The County would want to retain the engineer.

Commissioner Potter said you would want to hold the public hearing first to see if it passes. Seth said if the HOA wanted to front the engineering costs they could. Curtis said you wouldn't have to have the full design in order to understand the cost. It wouldn't be a risk of the whole \$25,000 in order to find out if we would be out of budget.

Commissioner Hopes made a motion to approve the Resolution with a public hearing on November 18, 2015. Commissioner Potter seconded. Motion carried.

14) Review and possible approval of the 2015 Emergency Management Performance Grant (EMPG) Project Grant – Whitney Waterfall

Sheriff Wood said this is the 2015 proposal for the EMPG grant, which is a 50/50 match, and they are applying for \$20,000. The plan is to send two corrections officers to the police academy to obtain LEO (Law Enforcement Officer) certification. They would spend \$5,000 in training and \$15,000 in equipment augmenting the drug task force, the cadaver dog team and the school resource officer. The contract is the same as in the past.

Commissioner Potter made a motion to approve the EMPG Grant application. Commissioner Hopes seconded. Motion carried.

15) Review and possible approval of the revised Carbon County Emergency Operation Plan

Sheriff Wood said the Emergency Operation Plan has been revised and updated. Most of the changes were to update commissioner's names, new address, elected officials and new sheriff. Whitney said they had contracted with Ron Mosier to review the plan and it now meets FEMA standards a requirement for 2018. Our plan had not been updated since 2008.

Commissioner Mellor asked who would respond to a major emergency in the County. Jeff and Whitney explained who responds to an emergency, which would be in charge and how training makes all cities and county entities work well together including training with private entities.

Commissioner Potter made a motion to approve the revised Carbon County Emergency Operation Plan, Commissioner Hopes seconded. Motion carried.

16) Consideration and possible approval of HIPAA Compliance Agreement with Parkdale Health & Rehab

Christian asked that this be tabled in order to discuss this with Parkdale Health and Rehab. Commissioner Hopes asked why we need to sign this when we are complying with HIPAA already.

Christian is proposing that the Commission not sign this because the ambulance department is already complying with everything. This is an attempt to force us to have contractual indemnity in place of statutory or common law indemnity in the event that the department does not follow the rules.

Commissioner Hopes made a motion to strike this item from the agenda, Commissioner Potter seconded. Motion carried.

17) Review and possible approval of Memorandum of Agreement with Robert Weidner, Rural Public Lands County Council for 2016

Commissioner Potter made a motion to not enter into this agreement with Robert Weidner and strike it from the agenda. Commissioner Hopes seconded. Motion carried.

18) Presentation of Annual Audit – Doug Rasmussen, Smuin Rich & Marsing

Doug Rasmussen said he appreciates coming and presenting the financial audit. Doug reviewed page 2 and read the unqualified opinion, a clean opinion which is required by the State auditor. On page 4 Doug reviewed the highlights of the report. There was an increase in the statement of net position and the County did very well in the governmental type activities with an increase of eight million dollars. If you look at the governmental financial statement which shows the total revenue brought in, grant money, loan money and loan proceeds, it shows that the County over spent the revenues by \$563,000. There is a big difference depending on the reporting method used.

Overall this past year, looking at page 17 which shows major funds, the Municipal Service Fund had excess revenue over expenditures of 1.5 million dollars, the Capital Projects Fund exceeded expenses by about \$230,000, the Building Authority had a expenditures in excess of revenue by \$123,000 and then there are other governmental funds on page 72, that is where they are consolidated in the financial statement on page 17.

As far as your budget to actual, there were no unfavorable budget variances for this past year, so you are in compliance as far as budgeting is concerned. There are a few items that needed to be addressed pertaining to management discussion points. Seth is aware of these as well as the Commissioners.

The first item deals with the Inmate Trust account and the Commissary Funds. These funds need to be sent to the County on a regular basis. Seth said this will be done monthly. Nothing is written that says how many times deposits need to be done but it needs to be regular. This item has been addressed.

The next item deals with payroll liabilities. Your accounting software system was taking some liabilities to a non-expenditure fund and so allocation of some of those expenses needs to be done every year. This has been corrected.

There is also an item of timely reconciling cash accounts. This past year there has been some improvements and the work is ongoing.

The last thing in the report is the Utah Public Finance website. Doug noted that this will be the last year that will have to be tested. The State Auditor's office has finally come to the conclusion that very few entities are complying with the requirement.

Doug asked for any questions. This past year great things have happened in the County. There have been financial improvements made. His office appreciates the opportunity to work with Seth and the County.

19) Review and possible approval of recommendations from the Hearing Officer of the Board of Equalization

Seth presented the Commissioners with a list of property owners who have appealed to the Board of Equalization. Seth reviewed the amounts before and after the appeals and the adjustment that will be made if the hearing officer's recommendations are approved.

Seth explained that if any additional changes are made, he would bring them back to the Commission. Notices are sent out to the appealing property owners after the Board of Equalization and they have 30 days from the date of the letter to appeal to the State. Tax notices cannot go out until the changes are ratified. The tax notices need to go out in November.

Commissioner Hopes said it looks like most of the properties had reductions assessed after appearing at the Board of Equalization. Seth said that is fairly consistent with prior years, most property owners explain their situation resulting in corrections or adjustments.

Commissioner Hopes made a motion to approve the recommendations from the Hearing Officer for Board of Equalization. Commissioner Potter seconded. Motion carried.

20) Review and Approval of Departmental Reports

21) Possible Closed Session to discuss the character, professional competence, or physical or mental health of an individual pursuant to U.C.A. §52-4-205.

Commissioner Potter made a motion to go into closed session to discuss the character, professional competence or physical or mental health of an individual pursuant to U.C.A. §52-4-205, Commissioner Hopes seconded. Motion carried.

Commissioner Patter made a motion to leave the closed session and adjourn from the regular session. Commissioner Hopes seconded. Motion carried.

Meeting adjourned at 6:58 p.m.

ATTEST:


Seth Oveson, County Clerk/Auditor

